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**BEFORE THE BOARD OF PATENT APPEALS
AND INTERFERENCES**

Application Number: 10/664,275

Filing Date: September 16, 2003

Appellant(s): MOREAU ET AL.

MAILED

SEP 28 2007

Technology Center 2600

Tarek N. Fahmi
For Appellant

EXAMINER'S ANSWER

This is in response to the appeal brief filed 5/16/07 appealing from the Office action
mailed 7/3/06.

(1) Real Party in Interest

A statement identifying by name the real party in interest is contained in the brief.

(2) Related Appeals and Interferences

The examiner is not aware of any related appeals, interferences, or judicial proceedings which will directly affect or be directly affected by or have a bearing on the Board's decision in the pending appeal.

(3) Status of Claims

The statement of the status of claims contained in the brief is correct.

(4) Status of Amendments After Final

The appellant's statement of the status of amendments after final rejection contained in the brief is correct.

(5) Summary of Claimed Subject Matter

The summary of claimed subject matter contained in the brief is correct.

(6) Grounds of Rejection to be Reviewed on Appeal

The appellant's statement of the grounds of rejection to be reviewed on appeal is correct.

(7) Claims Appendix

The copy of the appealed claims contained in the Appendix to the brief is correct.

(8) Evidence Relied Upon

20050149972	KNUDSON	7-2005
5,657,072	ARISTIDES	8-1997

6,219,839	SAMPSELL	4-2001
6,177,931	ALEXANDER	1-2001

(9) Grounds of Rejection

The following ground(s) of rejection are applicable to the appealed claims:

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

2. Claims 1-10 and 12-15 are rejected under 35 U.S.C. 103(a) as being unpatentable over U.S. Patent Application Publication 2005/0149972 to Knudson in view of U.S. Patent 5,657,072 to Aristides.

Regarding claim 1, Knudson discloses a user interface (figures 4,5,10) comprising:

A blending of television program choices from which a view may select (figure 4, paragraphs 46-48) TV program choice 151, VOD choice 152, user selects via FAV button), the blending representing options for linear (television choice) and non linear (VOD choice) programming presented together (figure 4) within a single hierarchy of a designated category (category is favorite channels).

Knudson fails to disclose a service provided defined blending.

Aristides discloses a service provider defined blended display (figure 2) of linear and non linear programming (column 5, lines 40-57, column 6, lines 1-33) in which a user may scroll backwards in time on a channel to select a previously broadcasted show to view, EPG information may be transmitted during off-peak times to improve response times (column 7, lines 27-58).

Therefore, it would have been obvious to one skilled in the art at the time of invention to modify Knudson to utilize the service provider defined blending and off peak transmission as taught by Aristides, for the advantage of enabling a user to watch previously broadcasted programming and improve response times by transmitting EPG information during off peak periods.

Regarding claim 2, Knudson discloses that the blending further includes managed content relevant to the designated category (paragraphs 46-48, a users favorite channels which carry the users favorite content are displayed).

Regarding claim 3, Knudson discloses that the designated category comprises a favorite television programming category (paragraphs 46-48).

Regarding claim 4, Knudson discloses in figure 8, that the category may include a favorite media type (paragraph 43).

Regarding claim 5, Knudson discloses in figure 4, that both the linear and non-linear programming are presented together within a single screen of the user interface.

Regarding claim 6, Knudson discloses a user interface for interactive TV (figures 4-5, 8-10, paragraphs 46-48), comprising a navigational hierarchy (figure 4) that blends linear (TV program choice 151) non linear (VOD choice 152) and information services (NASDAQ 154) in a single presentation (figure 4).

Knudson fails to disclose a service provided defined blending.

Aristides discloses a service provider defined blended display (figure 2) of linear and non linear programming (column 5, lines 40-57, column 6, lines 1-33) in which a user may scroll backwards in time on a channel to select a previously broadcasted show to view, EPG information may be transmitted during off-peak times to improve response times (column 7, lines 27-58).

Therefore, it would have been obvious to one skilled in the art at the time of invention to modify Knudson to utilize the service provider defined blending and off peak transmission as taught by Aristides, for the advantage of enabling a user to watch previously broadcasted programming and improve response times by transmitting EPG information during off peak periods.

Regarding claim 7, Knudson discloses that the programming choices are a set of all available programming options (paragraphs 42-43, and 46).

Regarding claim 8, Knudson discloses that the blend of programming options is presented as a subset (favorite lists) of all available program options (figures 4-5, paragraphs 48-50).

Regarding claim 9, Knudson discloses that the navigation hierarchy is presented in a single screen of information (figures 4-5).

Regarding claim 10, Knudson discloses that the blending of information services with linear and non linear programming information is done at multiple levels of content categorization (42-44, category type, media type).

Regarding claim 12, Knudson discloses that the blending may be preformed according to categories of programming (paragraphs 42-43).

Regarding claim 13, Knudson discloses that the categories comprise content categories (favorite contents, figure 4, paragraph 42-44, 48,50).

Regarding claim 14, Knudson shows in figure 4, that the blending spans content delivery types (television, VOD) and content categories (games, television, digital audio).

Regarding claim 15, Knudson discloses that categories may comprise content provider categories (figure 8, television provider category).

3. Claim 11 is rejected under 35 U.S.C. 103(a) as being unpatentable over U.S. Patent Application Publication 2005/0149972 to Knudson in view of U.S. Patent 5,657,072 to Aristides and U.S. Patent 6,219,839 to Sampsell.

Regarding claim 11, Knudson discloses in figure 1, that a VCR 46 is coupled to a STB 44.

The combination of Knudson and Aristides fails to disclose the use of non linear program information, which is about programs recorded on a subscriber storage unit.

Sampsell discloses a guide which displays both linear programming (ESPN), as well as non linear programming (column 4, line 66-column 5, line 10, column 7, lines 22-58), a user may select a program recorded on the VCR, watch a DVD, listen to a CD, or set their VCR to record a program, thus enabling a user to easily browse all their viewing options.

Therefore, it would have been obvious to one skilled in the art at the time of invention to modify the combination of Knudson and Aristides to display recorded programming, as taught by Sampsell, for the advantage of enabling a user to easily browse all available entertainment options.

3. Claims 16-23 are rejected under 35 U.S.C. 103(a) as being unpatentable over U.S. Patent Application Publication 2005/0149972 to Knudson in view of U.S. Patent 5,657,072 to Aristides and U.S. Patent 6,177,931 to Alexander.

Regarding claim 16, Knudson discloses in figure 5, a user interface comprising a single screen having various regions thereof for displaying non-linear (movie1 video on demand) linear programming information (SHO Television) and displays managed content listings (figure 4, NASDAQ).

Knudson fails to disclose if the managed content is relevant to the linear and non-linear programming and a service provider defined blending of programs.

Aristides discloses a service provider defined blended display (figure 2) of linear and non linear programming (column 5, lines 40-57, column 6, lines 1-33) in which a user may scroll backwards in time on a channel to select a previously broadcasted show to view, EPG information may be transmitted during off-peak times to improve response times (column 7, lines 27-58).

Therefore, it would have been obvious to one skilled in the art at the time of invention to modify Knudson to utilize the service provider defined blending and off peak transmission as taught by Aristides, for the advantage of enabling a user to watch previously broadcasted programming and improve response times by transmitting EPG information during off peak periods.

The combination of Knudson and Aristides fails to disclose if the managed content is relevant to the linear and non-linear programming

Alexander discloses an EPG in which a user browsing the EPG may select a title within the grid, an icon indicates the availability of managed content, a user elects to display the content after which the EPG connects to an Internet website and enables a user to learn more about the program or chat about the program (column 18, lines 1-54).

Therefore, it would have been obvious to one skilled in the art at the time of invention to modify the combination of Knudson and Aristides to utilize the relevancy between managed content and linear/non-linear content, as taught by Alexander, for the advantage of enabling a user to learn more about a program choice.

Regarding claim 17, Knudson shows in figure 5, that the linear and non-linear programming information are within a common content category (Favorite channels)

Regarding claim 18, Knudson discloses that the linear and non linear programming are provided to the STB 44 from a communication facility 36 (figure 1, paragraphs 33-36), thus the linear and non linear programming are within a common content provider category.

Regarding claim 19, Knudson discloses in figure 5, a user interface which displays linear and non-linear program information.

Knudson and Aristides fail to disclose the use of a scaled video presentation area.

Alexander discloses in figure 3, an electronic program guide interface in which a scaled video window (Figure 8, PIP window) displays the last tuned to program (column 13, lines 56-63) while a user browses program selections.

Therefore, it would have been obvious to one skilled in the art at the time of invention to modify the combination of Knudson and Aristides to utilize the scaled window of Alexander, for the advantage of enabling a user to keep track of the progress of a program while making a program selection.

Regarding claim 20, Knudson discloses enabling a user to scroll through content offerings provided (figures 4-5, arrow buttons and highlighted cell in figure 4).

Regarding claim 21, Knudson discloses scrolling buttons in figure 4.

The combination of Knudson and Aristides does not disclose presenting video information in the scaled video presentation area being dependant upon scrolling via the navigation control.

Alexander discloses in figure 3, an electronic program guide interface in which a scaled video window (Figure 8, PIP window) displays the program in the currently highlighted cell (column 13, lines 56-63), thus increasing the ease of browsing programming choices.

Therefore, it would have been obvious to one skilled in the art at the time of invention to modify the combination of Knudson and Aristides to display the currently

highlighted program choice in the scaled window, as taught by Alexander, for the advantage of increasing the ease of use while browsing programming choices.

Regarding claim 22, Knudson discloses displaying favorite channels in figure 5.

The combination of Knudson and Aristides fails to disclose a navigation control, which includes a category descriptor.

Alexander discloses in figure 8, a number of selectable buttons (grid, sort, schedule) and includes a category descriptor Movies: All, thus enabling a user to easily recognize the type of programming they are browsing.

Therefore, it would have been obvious to one skilled in the art at the time of invention to modify the combination of Knudson and Aristides to utilize the category descriptor of Alexander for the advantage of making it easily recognizable for the user to determine what category of programming they are browsing.

Regarding claim 23, Knudson discloses displaying content offerings, which comprise a family of channels (figure 5). As a family is a group of related units, and figure 5, shows a list of channels, all of which are related to one another, by the virtue of being a favorite of the user, there is a familial relationship between the channels.

(10) Response to Argument

Arguments with respect to claims 1-10 and 12-15:

Appellant argues that Aristides does not teach a service provider defined blending of linear and non linear programming choices. That while the listings in

Aristides may be regarded as being provided by a service provider, no blending is present in this program guide. (pages 3-4)

As a preliminary matter, the Examiner notes that Appellant's specification at paragraph 4 defines linear programming as traditional broadcast programming. The Examiner has met this limitation with Knudson's teachings in figures 4/5 of a regular broadcast programming channel 151 with a channel name 'TV1' and a media type 'television' (paragraphs 48/49). Applicant defines non-linear programming as on demand or video on demand (VOD) programming at paragraph 5 in the specification. The Examiner has met this limitation with Knudson's teachings in figures 4/5 of a video on demand channel 152 with a channel name 'MOVIE1' and a media type 'video on demand'. Thus it appears that applicant's arguments are concerned with where the blending of both types of programming occurs.

In this case, the modification of Knudson with Aristides would result in a favourite channel listing (a category) in which a user may scroll back in time within the favourite channel in order to access linear and non-linear programming, the linear and non linear programming choices are defined by the service provider. The claim requires that the service provider provides the blending, however the claim is silent as to whom creates the category. Further, the service provider is the one who provides the option to create favorites, it is not a user created option. Knudson shows linear and non linear programming together within a category (favorites) established by a user, but a service provider has not supplied the blending of the choices within the category. Aristides

teaches a service provider defined blending and provides the additional advantages of enabling a user to watch previously broadcasted programming but also transmits EPG information during off peak times to improve response times.

The Examiner notes that Aristides teaches at column 8, line 5-11, that the headend may utilize a program selection filter which provides sets of prioritized program data records which are customized according to individual viewers preferences. In this manner, the headend selectively transmits the specialized set of program data records to the appropriate subscribers at off demand/pre-peak times. The Examiner equates this to be a service provider defined blending as the composition of programs/channels is prepared at the headend prior to transmission of the channel listings to the subscriber. The defining step (filtering/sorting) is implemented by the service provider remotely from the user in order to blending the program choices together for display.

The Examiner further notes that the Electrical Arts are predictable arts and the Examiner has met the Examiner's obligation for likelihood for success.

Therefore, it would have been obvious to one skilled in the art at the time of invention to modify Knudson to utilize the service provider defined blending and off peak transmission as taught by Aristides, for the advantage of enabling a user to watch previously broadcasted programming and improve response times by transmitting EPG information during off peak periods (Aristides column 8, line 5-11).

Thus Knudson in combination with Aristides teaches each and every element of the respective claims.

Appellant argues that at best a combination of Aristides and Knudson might yield a system in which viewers designate favorite programs (both linear and non linear) from an EPG that includes cable channel listings. Such a system would still not be one in which the blending of choices was a service provider defined blending as claimed. Appellant submit that a listing of user-selected favorites is not equivalent to a service provider blending of program (page 4).

The Examiner notes that Knudson teaches providing a user favorites category which presents a single hierarchy with both linear and non linear program choices selected by a user locally at the user's set top terminal. Knudson also teaches providing linear and non-linear programming in a single hierarchy, in which a user may scroll backwards in time to access non-linear programming choices. As discussed above, Aristides at column 8, lines 5-11, teaches the service provider performing the filtering steps, thereby providing a service provider defined set of programming selections to the user. The combination of Knudson and Aristides would result in a single category presented to a user (favorites) in a user interface, of both linear and non-linear programming, with the service provider defining and blending the choices prior to the user interface being rendered for the user.

Thus Knudson in combination with Aristides teaches each and every element of the respective claims.

Arguments with respect to claim 11:

Appellant argues that the combination of Aristides and Knudson further modified by Sampsell would not include a service provider defined blending. (page 5).

The Examiner has addressed the argument above with respect to claims 1-10 and 12-15, with Sampsell further relied upon to teach non linear programming stored on a local storage unit and displayed within an EPG. Thus Sampsell in combination with Aristides and Knudson teaches each and every element of claim 11.

Arguments with respect to claims 16-23:

Appellant argues that Alexander does not teach presenting the managed content on the same screen as the programming choices. (Page 6).

The Examiner disagrees. Alexander clearly shows a single screen in figure 1 in which both EPG listings, as well as panel ads/PIP windows. Alexander discloses an EPG in which a user browsing the EPG may select a title within the grid, an icon indicates the availability of managed content, a user elects to display the content after which the EPG connects to an Internet website and enables a user to learn more about the program or chat about the program (column 18, lines 1-54). The managed content (chat, web site, advertisements etc) may be displayed within the AD window/PIP window (column 18, lines 33-54, column 20, line 3-column 22, lines 18) or may appear

as a virtual channel ad slot within a single hierarchy of the other listings (for example tile 52 in figure 1, column 22, line 20-column 23, line 41).

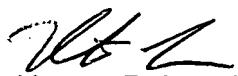
Therefore, it would have been obvious to one skilled in the art at the time of invention to modify the combination of Knudson and Aristides to utilize the relevancy between managed content and linear/non-linear content, as taught by Alexander, for the advantage of enabling a user to learn more about a program choice or product. Thus Alexander in combination with Aristides and Knudson teaches each and every element of claims 16-23.

(11) Related Proceeding(s) Appendix

No decision rendered by a court or the Board is identified by the examiner in the Related Appeals and Interferences section of this examiner's answer.

For the above reasons, it is believed that the rejections should be sustained.

Respectfully submitted,


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